

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA

V.

MATTHEW TUNSTALL

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CAUSE NO. 1:21-CR-00223-LY

AGREED MOTION TO CONTINUE TRIAL AND FOR EXTENSION OF DEADLINES

**TO THE HONORABLE JUDGE YEAKEL, UNITED STATES DISTRICT JUDGE FOR
THE WESTERN DISTRICT OF TEXAS:**

Defendant, Matthew Tunstall (“Mr. Tunstall”), by and through counsel, files this Agreed Motion to Continue Trial and for Extension of Deadlines and in support shows the following:

I.

Undersigned counsel was appointed to Mr. Tunstall’s case on **November 15, 2021**. The Government provided its first batch of discovery materials on **November 23, 2021** (comprising over 25,000 pages of data), and a second batch of discovery materials was provided on **January 6, 2022** (comprising over 3 million pages of data). Given the volume of discovery that must be reviewed before motions can be filed and the matter tried, counsel requests an extension of all deadlines by at least 120 days to adequately investigate the case, draft and file appropriate motions, and to prepare for trial.

II.

This case currently has a pretrial motions deadline of **April 25, 2022**. A hearing on all pending motions and docket call is currently set for **May 10, 2022 at 9:30 a.m.**, and Jury Selection and Trial is currently set on **June 13, 2022 at 9:00 a.m.**

III.

Undersigned counsel requests that the above trial date – and all pending deadlines, including the parties’ pretrial motions and response deadlines – be extended by at least one hundred twenty (120) days for the following reasons:

- The discovery in this case is voluminous. Counsel has received over 3 million pages of discovery and needs additional time to review each document. The current deadlines would deny defense counsel reasonable time necessary for effective preparation. *See* 18 U.S.C. 3161(h)(7)(B)(iv).¹
- All parties are in agreement that the trial in this matter should be continued to, at least, October 2022. Counsel for Mr. Tunstall conferred with counsel for Defendant Robert Reyes and counsel for the United States about the relief requested in this motion. The parties are unopposed to continuing the trial date and deadlines and – given each counsel’s current trial schedules – agree that, to the extent the Court is amenable, a trial setting in October 2022 would be preferable.

IV.

Undersigned counsel requests that the Court extend all deadlines in this case – including pretrial motions – by at least one hundred twenty (120) days.

¹ *See Wiggins v. Smith*, 539 U.S. 510, 534 (2003) (failure to investigate is not reasoned strategic judgment); *Rompilla v. Beard*, 545 U.S. 374, 395-96 (2005) (O'Connor, concurring) (finding ineffective assistance when defense counsel failed to properly investigate critical issue); *Sims v. Livesay*, 970 F.2d 1575, 1580-81 (6th Cir.1992) (defense counsel ineffective for failure to conduct an independent investigation and failed to ask a defense expert to examine the evidence); *Driscoll v. Delo*, 71 F.3d 701, 709 (8th Cir.1995) (defense counsel's failures to prepare for the introduction of

V.

Trial Attorneys for the Department of Justice, Rebecca Schuman and Michael Lang, and Defense Counsel for Robert Reyes, Aaron Wiley, were contacted about this Motion and are **unopposed to extending all deadlines by 120 days**.

VI.

This Motion is made not for the purpose of delay but so that justice may be done.

WHEREFORE, PREMISES CONSIDERED, Movant prays for the Court to extend all deadlines in this matter by at least one hundred twenty (120) days.

Respectfully submitted,

SUMPTER & GONZÁLEZ, L.L.P.

3011 North Lamar, Ste. 200

Austin, Texas 78705

Telephone: (512) 381-9955

Facsimile: (512) 485-3121

By: /s/ Worth Carroll

Worth Carroll

State Bar No. 24091192

worth@sg-llp.com

ATTORNEY FOR DEFENDANT

MATTHEW TUNSTALL

scientific evidence and “to subject the state's theories to the rigors of adversarial testing” constituted ineffective assistance).

CERTIFICATE OF SERVICE

By my signature below, I do hereby certify that on April 1, 2022, a true and correct copy of the foregoing Unopposed Motion to Continue Trial and for Extension of Deadlines was filed using the Court's electronic filing system, which will provide notice to all parties of record.

/s/Worth D. Carroll

Worth Carroll

CERTIFICATE OF CONFERENCE

Counsel for Mr. Tunstall discussed his request for an extension of all deadlines with counsel for the parties, and counsel for the United States and counsel for Defendant Robert Reyes are unopposed to the requested continuance and extension.

/s/Worth D. Carroll

Worth D. Carroll

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ORDER

CAME ON for hearing on _____ April, 2022 the foregoing Defendant's Unopposed Motion to Continue and for Extension of Deadlines, and the Court finds that for the reasons stated in the Defendant's motion, the ends of justice served by the extension outweigh the best interest of the public and the Defendant in a speedy trial.

The Court further finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the period of delay resulting from this extension shall be excluded in computing the time within which the trial must commence under the Speedy Trial Act.

IT IS ORDERED THAT the pretrial motions deadline is continued until the ____ day of _____, 2022, the hearing on all pending pretrial motions/docket call is continued until the ____ day of _____, 2022, and that jury selection/jury trial is continued until the ____ day of _____, 20__.

SIGNED on _____ April, 2022.

JUDGE YEAKEL